IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

OP.No. 4873 of 1999(E)

PETITIONER:

K.M. BASHEER, S/O. MUSSAVANNAN, KOCHEDATHIL, KANJIRAPPALLY.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVT., AGRICULTURAL DEPARTMENT, TRIVANDRUM.

2. DEPUTY TAHSILDAR (REVENUE RECOVERY), KANJIRAPPALLY.

BY GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 8273 OF 1999 IN OP 4873 OF 1999

DISMISSED

5.2.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF RETENDER NOTIFICATION DATED 24.5.97

EXT.P2 COPY OF THE LETTER SENT BY THE 2ND RESPONDENT TO THE PETITIONER DATED 2.9.96

EXT.P3 COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 25.3.97

EXT.P4 COPY OF THE RECEIPT DATED 25.3.97

EXT.P5 COPY OF RR PROCEEDINGS INITIATED IN THE MONTH OF MARCH, 1997

EXT.P6 COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE DIST COLLECTOR, KOTTAYAM.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 4873 OF 1999

Dated this the 5th day of February, 2007

JUDGMENT

The question raised is whether the petitioner is entitled to back out of the purchase contract on account of fall in market price of coffee berry. Tender conditions admittedly do not provide for any such entitlement for the petitioner. Admittedly petitioner purchased coffee berry and refused to lift the same by remitting agreed price. Thereafter this Court vide judgment in O.P.No. 20359 of 1995 directed to auction the coffee berry and authorised the respondents to recover the differential cost from the petitioner, which is demanded and sought to be recovered vide Ext.P5. The only ground raised by the petitioner is that reauction was conducted at a time when value of coffee berry was low, and therefore petitioner is not liable to pay differential cost. However, petitioner did not challenge the judgment of this Court. In the circumstances, I do not find any ground to interfere with the demand of differential cost raised in terms of the judgment of this Court. However, petitioner is granted time to clear the balance arrears

without any interest, and collection charges upto 31.3.2007. If petitioner makes payment as above, no interest will be recovered from the petitioner. However, if petitioner fails to pay the amount and settle the liability as above, recovery will be continued and in that event applicable rate of interest under the RR Act will be recovered from the petitioner.

O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge